

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

In re:

Electronic Submission of Selected
Documents

EMERGENCY GENERAL ORDER
FILED October 20, 2004
Amended January 11, 2005*
Amended Further May 23, 2005**
Amended Further January 1, 2006***

Before **TACHA**, Chief Judge, **SEYMOUR**, **EBEL**, **KELLY**, **HENRY**, **BRISCOE**,
LUCERO, **MURPHY**, **HARTZ**, **O'BRIEN**, **McCONNELL** and **TYMKOVICH**,
Circuit Judges.

*Effective January 11, 2005, the order was amended with the addition of the word 'unincarcerated' to the first sentence of subpart (e) and with the addition of the words 'or by electronic mail' to the second sentence of subpart (e). At that time, subpart (e) was identified as subpart (f).

**Effective May 23, 2005, the order was further amended. Addendum A, attached, shows the May 23, 2005 amendments with additions underscored and deletions shown as ~~stricken~~.

***Effective January 1, 2006, the order was further amended. The introductory paragraph was amended to reflect that the clerk shall permit a document to be filed out of time (without a separate motion) if the document was properly and timely submitted to the clerk in electronic form and is filed with the clerk in paper form within two business days from the date of the electronic submission. The order had previously allowed ten days. An additional clarifying sentence was also added to the paragraph: "The court may, in its discretion, act on the electronic submission prior to receipt of the document in paper form."

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In order to evaluate the usefulness of documents in electronic form the Court adopts this interim order effective December 1, 2004.

Except in social security cases, all parties represented by counsel, including pro se parties who are admitted to the practice of law, (Digital Submitters) must and all other parties may submit certain documents in electronic form (Digital Submission) as provided herein. Electronic submission does not supplant, but is in addition to, written filings required by the Federal Rules of Appellate Procedure and the Tenth Circuit Rules. This order does not alter the requirement that all pleadings, briefs, and other documents be timely filed, in paper form, under the Federal Rules of Appellate Procedure and Tenth Circuit Rules. However, the clerk shall permit a document to be filed out of time (without a separate motion) if the document was properly and timely submitted to the clerk in electronic form and is filed with the clerk in paper form within two business days from the date of the electronic submission. The court may, in its discretion, act on the electronic submission prior to receipt of the document in paper form. Digital Form or Digital Submission refers to a document in Portable Document Format (also known as PDF or Acrobat format and sometime referred to as Native PDF) generated from an original word processing file, so that the text may be searched and copied: PDF images created by scanning documents do not comply.

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(a) ***Briefs.*** In addition to the written filing (original and seven copies), Digital Submitters must furnish the full contents of briefs (from cover through conclusion) in Digital Form. Any attachment(s) to a brief available in Digital Form must be included with the brief (and in the same document). Briefs may contain hyperlinks to cases and authorities.

(1) ***Scanned Attachments to Briefs.*** Documents attached to a written and filed brief that are not available in Digital Form may be submitted along with the written brief in scanned PDF format. If any attachment to a brief is submitted in scanned PDF format all attachments (except those in Digital Form included with the electronically filed brief) must be so submitted and they must be submitted as one separate PDF document (all scanned documents included as attachments to a brief must be contained in a single PDF document).

(2) ***Notice of Attachments.*** If a brief has attachments the cover page must so state and also state whether the attachments are included in Digital Form, scanned PDF format or only in writing.

(b) ***Motions, Petitions, Cost Bills, and Submissions of Supplemental Authority.*** In addition to the written filing with the requisite number of copies, Digital Submitters must submit all motions, petitions (including petitions for rehearing), cost bills and submissions of supplemental authority pursuant to Fed. R. App. P. 28(j) in Digital Form. Any attachment(s) to a motion, petition, cost bill, or submission of supplemental authority

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available in Digital Form must be included with the filed document (and in the same document).

(1) Scanned Attachments to Motions, Petitions, Cost Bills, and

Submissions of Supplemental Authority. Documents attached to a written and filed motion, petition, cost bill, or submission of supplemental authority that are not available in Digital Form may be submitted in scanned PDF format. If any attachment is submitted in scanned PDF format, all attachments (except those in Digital Form included with the electronically filed document) must be so submitted and they must be submitted as one separate PDF document. That is, all scanned documents included as attachments to a motion, petition, cost bill, or submission of supplemental authority must be contained in a single PDF document.

(2) Notice of Attachments. If a motion, petition, cost bill, or submission of supplemental authority has attachments, the certificate of service must so state and also state whether the attachments are included in Digital Form, scanned PDF format or only in writing.

(c) Submission. Except as provided below, all digital submissions must be furnished to the Clerk via e-mail to esubmission@ca10.uscourts.gov. If a brief, motion, petition, cost bill, or submission of supplemental authority is being submitted under seal, then it must be submitted on a compact disc (CD ROM), rather than via email. The CD ROM must be

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clearly identified as being submitted under seal. Documents not being submitted under seal may be submitted on a CD ROM sent to the Clerk, but submission via email is strongly preferred.

(1) ***Identification and signing.*** The label of a compact disc, if one is used, or the subject line of each e-mailed document must show the case name, docket number, and party on whose behalf it is presented. A digital submission requiring an attorney's or pro se party's signature shall be signed in the following manner:

s/ Attorney or Pro Se Party
Attorney Bar Number (if applicable)
Address
Telephone number
E-mail address

(2) ***Electronic Mail.*** The subject line of any email must have the docket number and short title of the case.

(d) ***Certification of digital submissions.*** In addition to the certificate of service required by the Federal Rules of Appellate Procedure and Tenth Circuit Rules, Digital Submitters must certify that:

(1) all required privacy redactions (below) have been made and, with the exception of those redactions, every document submitted in Digital Form or scanned PDF format is an exact copy of the written document filed with the Clerk, and

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(2) the digital submissions have been scanned for viruses with the most recent version of a commercial virus scanning program (naming the program, version and the date of the most recent update) and, according to the program, are free of viruses.

(e) ***Service.*** In addition to the service requirements of the Federal Rules of Appellate Procedure and the Tenth Circuit Rules, Digital Submitters must simultaneously provide to all other counsel and unincarcerated pro se parties identical copies of any material submitted to the Clerk in Digital Form or scanned PDF format. The copies shall be provided on a compact disc supplied along with written materials or by electronic mail. Compliance with this requirement must be included in the certificate of service.

(f) ***Privacy redactions.*** In the interest of privacy, Digital Submitters must redact all digital submissions as required by any privacy policy of the Judicial Conference of the United States (e.g., names of victims and minors ; financial account numbers; social security numbers [use only the last four numbers], dates of birth, and other data required to be redacted by order of the court). See <http://www.privacy.uscourts.gov/b4amend.htm>. The responsibility for redacting personal data identifiers rests solely with counsel and the parties.

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(g) ***Relief.*** For good cause, a party may move for relief from the requirement of Digital Submission.

During the pendency of this order, the court will evaluate its effectiveness. The court invites interested parties to send written comments to the clerk of court. After evaluation, the court will decide whether the order should be vacated or whether its provisions should be incorporated into the rules of court wholly or in part.

ENTERED FOR THE COURT

by the Acting Clerk

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ADDENDUM A

May 20, 2005 Amendments to the Emergency General Order of October 20, 2004

Additions shown underscored and deletions shown as ~~stricken~~.

In order to evaluate the usefulness of documents in electronic form, the Court adopts this interim order effective December 1, 2004.

Except in social security cases, all parties represented by counsel, including pro se parties who are admitted to the practice of law, (Digital Submitters) must and all other parties may submit certain documents in electronic form (Digital Submission) as provided herein. Electronic submission does not supplant, but is in addition to, written filings required by the Federal Rules of Appellate Procedure and the Tenth Circuit Rules. This order does not alter the requirement that all pleadings, briefs and other documents be timely filed, in paper form, under the Federal Rules of Appellate Procedure and Tenth Circuit Rules. However, the clerk shall permit a document to be filed out of time (without a separate motion) if the document was properly and timely submitted to the clerk in electronic form and is filed with the clerk in paper form within 10 days from the date of the electronic submission. Digital Form or Digital Submission refers to a document in Portable Document Format (also known as PDF or Acrobat format and sometimes referred to as Native PDF) generated from an original word processing file, so that the text may be searched and copied: PDF images created by scanning documents do not comply.

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to a brief must be contained in a single PDF document), ~~identified as the Clerk may direct).~~

(2) **Notice of Attachments.** If a brief has attachments, the cover page must so state and also state whether the attachments are included in Digital Form, scanned PDF format or only in writing.

~~(b) Appendix. Any appendix required by Tenth Circuit Rule 30.1 must be filed in written form. In addition, Digital Submitters must submit all portions of the appendix available in Digital Form in a single PDF document, identified as the Clerk may direct, if that document does not exceed 7.5 megabytes. If it exceeds 7.5 megabytes, the Clerk must be contacted for supplemental instructions. With the prior permission of the Clerk and as the Clerk may direct, Appendix documents not available in Digital Form may be submitted in scanned PDF format.~~

~~(c) **Motions, Petitions, Cost Bills, and Submissions of Supplemental Authority** and other. In addition to the written filing with requisite number of copies, Digital Submitters must submit all motions, petitions (including petitions for rehearing), cost bills, and submissions of supplemental authority pursuant to Fed. R. App. P. 28(j) entries of appearance in Digital Form. Any attachment(s) to a motion, petition, cost bill, or submission of supplemental authority available in Digital Form must be included with the filed document (and in the same document). The original (but no copies) of each motion, cost bill or entry of appearance, and the original and all required copies of petitions for rehearing or petitions for rehearing en banc must also be filed and served in written form as required by the Federal Rules of Appellate Procedure and Tenth Circuit Rules.~~

(1) Scanned Attachments to Motions, Petitions, Cost Bills, and Submissions of Supplemental Authority. Documents attached to a written and filed motion, petition, cost bill, or submission of supplemental authority that are not available in Digital Form may be submitted in scanned PDF format. If any attachment is submitted in scanned PDF format, all attachments (except those in Digital Form included with the electronically filed document) must be so submitted and they must be submitted as one separate PDF document. That is, all scanned documents included as attachments to a motion, petition, cost bill, or submission of supplemental authority must be contained in a single PDF document.

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(hg) Relief. For good cause, a party may move for relief from the requirement of Digital Submission.

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